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### REMARKS/ARGUMENTS

Claim 1 has been amended to more specifically define the structure of an ingestible element in accordance with one preferred disclosed aspect of Applicant's invention. Additionally, new Claims 11-17 are presented directed to other preferred aspects of the invention. Favorable reconsideration by the Examiner is respectfully requested in light of these amendments and the accompanying remarks.

The ingestible element as defined in Claim 1 and the claims dependent therefrom, has a structure generally as shown in Figures 2, 3 and 6. It has generally opposed main surfaces (5 and 7 in Figure 3), which are interconnected by an adjoining peripheral surface. At least one bore extends through the element between the opposed surfaces extending from one portion of the peripheral surface to another portion of the peripheral surface, and this bore defines at least one air passing channel 3 making it possible to avoid choking in the event of the element being swallowed the wrong way and becoming lodged in a person's trachea.

Claims 14-16 define a capsule generally as shown in Figures 4 and 5. Claim 17 is directed to a method for reducing the risk of a person choking. The newly submitted claims are based upon the content of the specification and drawings as filed, and no new matter is presented.

The original claims stand rejected under 35 U.S.C. § 102 or 35 U.S.C. § 103 based upon the Sangalli et al. publication, the DePrince European Patent No. EP 0214834 and the Delautre French Patent No. 2441341. None of these patent documents describes an ingestible element with an air channel designed for avoiding choking in the event of the object being swallowed the wrong way. Furthermore, none of these patent documents describes an ingestible element with the structure as set forth in the claims as now presented.

The Sangalli et al. reference describes a device for providing a sustained constant drug release. There is no disclosure or suggestion of an anti-choking effect.

Similarly, the DePrince patent has, as its objective, to provide a slow release of the active agent in order to have a constant rate of release. Again, there is no disclosure or suggestion of an ingestible element with the structure set forth in the claims of record.

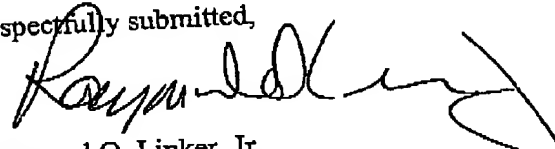
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Likewise, the Delautre patent does not disclose a channel as claimed in the present invention, but rather discloses perforations through a thin plate having grooves on one face perpendicular to grooves made on the other face.

The claims as now presented are believed to clearly distinguish Applicant's invention over the cited prior art. Favorable reconsideration by the Examiner in a formal notification of the allowability of all claims as now presented are earnestly solicited.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.


Respectfully submitted,

  
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CERTIFICATION OF FACSIMILE TRANSMISSION

I hereby certify that this paper is being facsimile transmitted to the US Patent and Trademark Office at Fax No. (703) 872-9310 on the date shown below.

  
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November 21, 2003  
Date